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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,019	12/14/2001	Satheesh Kumar Krishnamoorthy	ROC920010284US1	7834

7590

10/04/2005

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EXAMINER
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THOMPSON, MARC D

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/017,019	<b>Applicant(s)</b> KRISHNAMOORTHY, SATHEESH KUMAR	
	<b>Examiner</b> Marc D. Thompson	<b>Art Unit</b> 2144	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: None.  
 Claim(s) objected to: None.  
 Claim(s) rejected: 1-6, 8-10, 12, 14-23 and 25-29.  
 Claim(s) withdrawn from consideration: None.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

MARC D. THOMPSON  
 MARC THOMPSON  
 PRIMARY EXAMINER

*RS*

This application has been reassigned to a new Examiner. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marc D. Thompson at telephone number is 571-272-3932.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant arguments set forth in the response are not deemed to be persuasive. Applicant attempts to distinguish the claimed invention from the prior art of record by arguing terminology revolving around the notion of "entitlements". Applicant argues that "In general, entitlement services include maintenance agreements, service agreements and the like. Such agreements may attach to any of a variety of products offered by the corporation, including hardware and software.", "the only definition of entitlements provided by Ahlberg is directed to a user's access privileges", and "there is simply no intersection/correspondence of the entitlements of the Applicant and the entitlements of Ahlberg." If entitlement services include service agreements attached to hardware and/or software, there is no reasonable argument which differentiates these "entitlement services" from licenses for software and/or computer usage. Ahlberg specifically recites "The present invention is to provide a Web-based, on-line application system for processing system administrative and order entry functions for an integrated suite of services and products over the Internet. For example, a suite of products and services may include personal communications services such as pagers, cellular phones, and voice mail, traditional wireline services, and Internet access. Other services include Toll Free Number Network and conferencing. Integrating these products and services and providing an online system for order entry and administration over the Internet allow improved flexibility to a customer when managing their telecommunications accounts. Thus, "integrated suite of services and products" directly relates to agreements attached to hardware and software, and the like. Lastly, Applicant argues "the Examiner states that Applicant has argued that the entitlements disclosed by Ahlberg is defined as 'a privilege or authorization that customer has, and is akin to access levels in UNIX which are granted when a customer belongs to a certain user groups.' This still seems like a valid position, since access levels in UNIX are entitlement indications for software usage and hardware access, broadly construing "service agreements attached to hardware and/or software" as described and claimed. In any event, to limit the meaning of the "entitlement" services disclosed by Ahlberg using this analogy is improper, since Ahlberg disclosed a number of other, directly relevant definitions as cited above. Any distinction between entitlements involving "service agreements attached to hardware and/or software" cannot be reasonably separated from "a privilege or authorization that a customer has" (Ahlberg, Column 20, Lines 55-56).

Further, the open ended definition provided by Applicant in the specification may be deficient in order to understand the intended scope of the terminology, since neither Applicant nor the specification define what an "entitlement" actually is, only what it MAY be, using indefinite language including "and the like". Likewise, Applicant presumes this similarly defined terminology is sufficient for distinguishing the currently claimed invention over the prior art of record as applied. This Examiner respectfully disagrees in light of the above analysis, and the general lacking of Applicant to detail what constitutes an entitlement and how this presumed meaning is different from "a privilege or authorization that a customer has" concerning "service agreements attached to hardware and/or software".

It is noted Applicant has had multiple opportunities to amend the claimed subject matter, and has generally failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP § 2111. Applicant employs broad language which includes the use of words and phrases which have broad meanings in the art. In addition, Applicant has not amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly as reasonably possible, in determining patentability of the disclosed invention. Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intend broad interpretation be given to the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The current claims infer coverage breadth which is inconsistent with breadth of the disclosure and are not found distinguishable above the prior art of record.

The Office stands by the basis of statutory rejection(s) set forth in the final action. This request for reconsideration fails to place the application in condition for allowance.

MARC D. THOMPSON  
MDT  
PRIMARY EXAMINER